

**JOINT RESOLUTION OF THE  
BOARD OF DIRECTORS OF THE  
POWHATON COMMUNITY AUTHORITY  
AND  
POWHATON ROAD METROPOLITAN DISTRICT NO. 1  
AND  
POWHATON ROAD METROPOLITAN DISTRICT NO. 2  
AND  
POWHATON ROAD METROPOLITAN DISTRICT NO. 3  
AND  
POWHATON ROAD METROPOLITAN DISTRICT NO. 4  
AND  
POWHATON ROAD METROPOLITAN DISTRICT NO. 7**

**ESTABLISHING POLICIES AND PROCEDURES FOR  
THE ACCEPTANCE OF PUBLIC IMPROVEMENTS**

---

WHEREAS, the Powhaton Road Metropolitan District No. 1, City of Aurora, State of Colorado (“**District No. 1**”), is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, the Powhaton Road Metropolitan District No. 2, City of Aurora, State of Colorado (“**District No. 2**”), is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, the Powhaton Road Metropolitan District No. 3, City of Aurora, State of Colorado (“**District No. 3**”), is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, the Powhaton Road Metropolitan District No. 4, City of Aurora, State of Colorado (“**District No. 4**”), is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, the Powhaton Road Metropolitan District No. 7, City of Aurora, State of Colorado (“**District No. 7**”), is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, the Powhaton Community Authority, City of Aurora, State of Colorado (the “**Authority**”) was created by virtue of that certain Establishment Agreement by and among Powhaton Road Metropolitan District Nos. 1-11, dated March 24, 2021 (the “**Establishment Agreement**”), pursuant to § 29-1-203, C.R.S., and in conformity with § 29-1-203.5, C.R.S.; and

WHEREAS, public improvements shall mean the public improvements and associated services authorized under the Establishment Agreement (the “**Public Improvements**”); and

WHEREAS, the Authority and Powhaton Road Metropolitan District Nos. 1-11 (collectively, the “**Districts**”) are parties to that certain Operating Agreement dated April 14, 2021 (the “**Operating Agreement**”); and

WHEREAS, pursuant to the Operating Agreement, the parties agreed that the Authority will perform O&M Services (as defined in the Operating Agreement) of the Public Improvements on behalf of the Districts; and

WHEREAS, the Board of Directors of the Authority, the Boards of Directors of District No. 1, the Boards of Directors of District No. 2, the Boards of Directors of District No. 3, the Boards of Directors of District No. 4, and the Boards of Directors of District No. 7 (collectively, the “**Boards**”) recognizes that due to the timing and need for certain Public Improvements, third-party developers or builders (each a “**Developer**” and, collectively the “**Developers**”) may construct all or a portion of the Public Improvements for the benefit of the Authority, District No. 1, District No. 2, District No. 3, District No. 4, and District No. 7; and

WHEREAS, the Boards desires to adopt a policy whereby the Authority may, in its sole discretion and in accordance with the Establishment Agreement and Operating Agreement, acquire certain of the Public Improvements from Developers, subject to the terms of this Resolution; and

NOW, THEREFORE, be it resolved by the Boards of the District as follows:

1. Application for Acceptance of Public Improvements/Documentary Requirements In General. Upon completion of the Public Improvements to be acquired by the Authority (or a portion thereof which, in the reasonable opinion of the Authority, based upon advice from its engineers, constitutes a discrete subsystem or component of a larger improvement or structure that may be separately acquired), the Developer shall initiate a request for the Authority’s acceptance of Public Improvements by submitting a completed “Application for Acceptance of Authority Acquired Public Improvements” attached hereto as **Exhibit A**, and incorporated herein by this reference. The Authority will only accept an Applicable for Acceptance of Authority Acquired Public Improvements between April 1<sup>st</sup> and September 1<sup>st</sup> of each year.

2. Authority Acquisition of Public Improvements/Additional Requirements. Upon receipt of a completed Application for Acceptance of Authority Acquired Public Improvements, the Authority shall promptly direct the following to occur:

- a. The Authority’s representative (who may be a civil engineer licensed in Colorado having experience in the design and construction of public improvements or who may be another professional in the Authority’s sole discretion), and the Developer or its representative, shall jointly inspect the Public Improvements within 30 days of the submission of a complete Application for Acceptance of Authority Acquired Public Improvements (the “**Inspection**”), unless the Parties mutually agree to extend the deadline;
- b. If the Authority’s representative finds after the Inspection that: (1) the Public Improvements have been constructed in substantial accordance with the Construction Drawings (as defined on Exhibit A, Schedule 1) (subject to any reasonable punch list items to correct any defective work); and (2) the Public

Improvements are fit for their intended purpose, then, within 14 days after the Inspection, unless the Parties mutually agree to extend the deadline, the Authority's representative shall notify the Authority in writing of its findings and provide certification of the same (the "Authority Inspection Certification");

- c. If any defective work is identified during the Inspection, the Authority's representative will prepare a punch list of items requiring remedial action to correct any defective work. Such corrective work will be performed by the Developer within 60 days of the issuance of the Authority Inspection Certification. Within 30 days after the corrective work has been completed, the Authority's representative and the Developer or its representative shall jointly inspect the Public Improvements that were found to be defective and the Authority's representative shall provide a new Authority Inspection Certification for such Public Improvements.

3. Authority Acceptance Resolution. Unless otherwise agreed to by the Parties, within 60 days of receipt of a satisfactory Authority Inspection Certification, the Authority shall acquire the Public Improvements by adopting a resolution declaring satisfaction of the conditions to acquisition as set forth in this Agreement, subject to any variances or waivers which the Authority may allow in its sole and absolute discretion, and with any reasonable conditions the Authority may specify (the "**Authority Acceptance Resolution**"). Upon adoption of the Authority Acceptance Resolution, the Parties shall coordinate to transfer the Public Improvements to be acquired by the Authority within 60 days of adoption of the applicable Authority Acceptance Resolution.

4. No Reimbursement for Public Improvements. The Authority, District No. 1, District No. 2, District No. 3, District No. 4, or District No. 7 shall not reimburse the Developer for costs related to Public Improvements unless such reimbursement is pursuant to a separate agreement between the Authority, District No. 1, District No. 2, District No. 3, District No. 4, or District No. 7 and the Developer.

5. Subject to Annual Appropriations. This Resolution shall not constitute a multi-fiscal year obligation of the Authority, District No. 1, District No. 2, District No. 3, District No. 4, or District No. 7, and any policies of the Authority, District No. 1, District No. 2, District No. 3, District No. 4, or District No. 7 as provided herein shall be subject to annual appropriation by the Boards of Directors.

6. No Waiver. No waiver of any of the provisions of this Resolution shall be deemed to constitute a waiver of any other of the provisions of this Resolution, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein.

7. No Guaranty or Reliance. Nothing contained herein shall obligate the Authority to acquire any Public Improvements.

ADOPTED this 4<sup>th</sup> day of June, 2024.

POWHATON COMMUNITY AUTHORITY

38C0A904DAC6490  
*James Spehalski*  
DocuSigned By: James Spehalski  
\_\_\_\_\_  
Officer of the Authority

ATTEST:

DocuSigned by:  
*Roger Holland*  
\_\_\_\_\_  
Secretary

POWHATON ROAD METROPOLITAN DISTRICT NO. 1

38C0A904DAC6490  
*James Spehalski*  
DocuSigned By: James Spehalski  
\_\_\_\_\_  
Officer of the District

ATTEST:

DocuSigned by:  
*Roger Holland*  
\_\_\_\_\_  
Secretary

POWHATON ROAD METROPOLITAN DISTRICT NO. 2

DocuSigned by:  
*Robert Coates*  
\_\_\_\_\_  
Officer of the District

ATTEST:

DocuSigned by:  
*CJ Kirst*  
\_\_\_\_\_  
Secretary

POWHATON ROAD METROPOLITAN DISTRICT NO. 3

38C0A904DAC6490  
*James Spehalski*  
DocuSigned By: James Spehalski

ATTEST:

DocuSigned by:  
*Roger Holland*  
DocuSigned By: Roger Holland  
Secretary

POWHATON ROAD METROPOLITAN DISTRICT NO. 4

38C0A904DAC6490  
*James Spehalski*  
DocuSigned By: James Spehalski

ATTEST:

DocuSigned by:  
*Roger Holland*  
DocuSigned By: Roger Holland  
Secretary

POWHATON ROAD METROPOLITAN DISTRICT NO. 7

38C0A904DAC6490  
*James Spehalski*  
DocuSigned By: James Spehalski

ATTEST:

DocuSigned by:  
*Roger Holland*  
DocuSigned By: Roger Holland  
Secretary

**EXHIBIT A**

**Application for Acceptance of  
Authority Acquired Improvements**

**Applicant Name:** \_\_\_\_\_

**Applicant Address:** \_\_\_\_\_

**State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_ **Daytime Phone #:** \_\_\_\_\_

**Alt. Phone / Cell:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Please complete the table below and attach the materials specified in Schedule 1 hereto:**

By its signature below, the Applicant certifies that this Application for Acceptance of Authority Acquired Improvements and all documents submitted in support of this application are true and correct, that the Applicant is authorized to sign this application.

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Schedule 1

With respect to any substantially completed Public Improvements to be acquired by the Authority, the Developer shall furnish the following:

1. **Construction Drawings.** Approved construction drawing, plans, shop drawings and any applicable construction standards.
2. **Contracts.** Contracts and approved change orders.
3. **Invoices and Lien Waivers.** Copies of all invoices, statements and evidence of payment thereof, including lien waivers from any suppliers and subcontractors.
  - a. **Indemnification Agreement.** In the alternative with respect to lien waivers, upon the request of the Developer, and subject to the Authority's agreement thereto (in its sole discretion), the Developer may provide an indemnification agreement in form and substance acceptable to the Authority (which may include provisions for security) whereby the Developer agrees to indemnify the Authority for any mechanic or materialman's liens from suppliers and subcontractors.
4. **Digital Record Drawings.** A complete set of digital record drawings of the Public Improvements which are certified by a professional engineer registered in the State of Colorado or a licensed land surveyor, showing accurate dimensions and location of all Public Improvements. Such drawings shall be in form and content reasonably acceptable to the Authority.
5. **Landscape Plans.** If applicable, the approved landscape plan(s) and certification by a landscape architect or engineer that all landscape improvements were installed in accordance with the approved landscape plan(s).
6. **Warranties and Guaranties.** Assignment of any warranties or guaranties.
7. **Operations Manuals.** Any operation and maintenance manuals.
8. **Electronic Locations.** Evidence that any underground facilities are electronically locatable (if applicable);
9. **Test Results.** If applicable, test results for improvements conforming to industry standards (compaction test results, concrete tickets, hardscape test results, cut-sheets, etc.). If applicable, pressure test results for any irrigation system.
10. **Warranty Agreement.** An agreement in form and substance satisfactory to the Authority (which may include provisions for security) addressing the maintenance of such Public Improvements, and any corrective work that may be necessary in the opinion of the Authority's Engineer, for a period of 2 years from the date of the Authority Acceptance Resolution; provided that, in the event that corrective work has been required and is performed, the 2 year period shall be subject to extension at the election of the Authority for an additional 1 year period with respect to that portion of the Public Improvements that was the subject of such corrective work.
11. **Engineer's Design Certification.** A certification from an engineer or other appropriate design professional stating that: a) the Public Improvements have been inspected for compliance with approved designs, plans and construction standards, 2) that the Public Improvements have been substantially constructed in accordance with the approved designs, plans and construction standards, and 3) the Public Improvements are fit for their intended purpose.

12. **Bill of Sale.** An executed Bill of Sale for the Public Improvements in form and substance acceptable to the Authority.
13. **Special Warranty Deed.** If the Authority is to assume ownership of any real property, a title commitment and form of Special Warranty Deed, in a form acceptable to the Authority, conveying the real property free and clear of all liens, claims and other encumbrances, except matters of record acceptable to the Authority.
14. **Insurance Information.** Such information as the Authority may require in order to insure the Public Improvements.